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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CHASOM BROWN, *et al.*, individually and
on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO SEAL GOOGLE'S
OPPOSITION TO PLAINTIFFS'
MOTION TO STRIKE PORTIONS OF
GOOGLE'S SUMMARY JUDGEMENT
REPLY**

Judge: Hon. Yvonne Gonzalez Rogers

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Defendant Google LLC (“Google”) respectfully seeks to seal certain portions of Google LLC’s Opposition to Plaintiffs’ Motion to Strike Portions of Google’s Summary Judgment Reply (“Opposition”), which contains non-public, highly sensitive, and confidential business information that could affect Google’s competitive standing and may expose Google to increased security risks if publicly disclosed, including details related to Google’s internal identifiers, logs, and their proprietary functionalities, which Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google’s competitors. This information is highly confidential and should be protected.

This Administrative Motion pertains to the following information contained in the Opposition:

Document	Portions to be Filed Under Seal	Basis for Sealing
Google’s Opposition to Plaintiffs’ Motion to Strike Portions of Google’s Summary Judgment Reply	Highlighted Portions at: Pages 3:23-4:1, 4:4, 4:19, 5:3, 5:15, 6:1, 6:7	The information requested to be sealed contains Google’s highly confidential and proprietary information regarding highly sensitive features of Google’s internal systems and operations, including various types of Google’s internal identifiers, logs, and their proprietary functionalities, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google’s competitors. Such confidential and proprietary information reveals Google’s internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. See Dkt. 81 at 2-3. Public disclosure of such confidential and proprietary information could affect Google’s competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google’s internal practices relating to competing products.

1 Joseph Margolies 2 Declaration ISO of 3 Google's Opposition 4 to Plaintiffs' Motion 5 to Strike Portions of 6 Google's Summary 7 Judgment Reply	8 Highlighted Portions 9 at: 10 11 Page 3:10	12 The information requested to be sealed contains 13 Google's highly confidential and proprietary 14 information regarding highly sensitive features 15 of Google's internal systems and operations, 16 including Google's internal identifiers and logs, 17 that Google maintains as confidential in the 18 ordinary course of its business and is not 19 generally known to the public or Google's 20 competitors. Such confidential and proprietary 21 information reveals Google's internal 22 strategies, system designs, and business 23 practices for operating and maintaining many of 24 its important services, and falls within the 25 protected scope of the Protective Order entered 26 in this action. See Dkt. 81 at 2-3. Public 27 disclosure of such confidential and proprietary 28 information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google's internal practices relating to competing products.
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16 II. LEGAL STANDARD

17 A party seeking to seal material must “establish[] that the document, or portions thereof, are
18 privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is
19 “sealable”). Civ. L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing
20 only of sealable material.” *Id.*

21 In the context of dispositive motions, materials may be sealed in the Ninth Circuit upon a
22 showing that there are “compelling reasons” to seal the information. *See Kamakana v. City & Cty.*
23 *of Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir. 2006). Quoting the Supreme Court’s decision in
24 *Nixon v. Warner Communications*, the Ninth Circuit has noted that examples of what might
25 constitute a compelling reason include “‘sources of business information that might harm a litigant’s
26 competitive standing.’” *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097 (9th Cir.
27 2016) (quoting 435 U.S. 589, 598-99 (1978)). The materials that Google seeks to seal here easily
28 meet the “compelling reasons” standard.

1 III. THE ABOVE IDENTIFIED MATERIALS SHOULD ALL BE SEALED

2 Courts have repeatedly found it appropriate to seal documents that contain “business
3 information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99. Materials
4 that could harm a litigant’s competitive standing may be sealed under the “compelling reasons”
5 standard. *See e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at
6 *2 (N.D. Cal. Mar. 4, 2015) (information “is appropriately sealable under the ‘compelling reasons’
7 standard where that information could be used to the company’s competitive disadvantage”)
8 (citation omitted). Courts in this district have also determined that motions to seal may be granted
9 as to potential trade secrets. *See, e.g. United Tactical Sys., LLC v. Real Action Paintball, Inc.*, 2015
10 WL 295584, at *3 (N.D. Cal. Jan. 21, 2015) (rejecting argument against sealing “that [the party]
11 ha[s] not shown that the substance of the information . . . amounts to a trade secret”).

12 Here, the compelling reason standard is satisfied. The Opposition comprises confidential and
13 proprietary information regarding highly sensitive features of Google’s internal systems and
14 operations that Google does not share publicly. Specifically, this information provides details
15 related to Google’s internal identifiers, logs, and their proprietary functionalities. Such information
16 reveals Google’s internal strategies, system designs, and business practices for operating and
17 maintaining many of its important services while complying with its legal and privacy obligations.

18 Public disclosure of the above-listed information would harm Google’s competitive standing
19 it has earned through years of innovation and careful deliberation, by revealing sensitive aspects of
20 Google’s proprietary systems, strategies, and designs to Google’s competitors. That alone is a proper
21 basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No. 14-cv-02329-
22 BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal certain
23 sensitive business information related to Google’s processes and policies to ensure the integrity and
24 security of a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*, No. 3:16-cv-
25 02787-WHO, Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales data because
26 “disclosure would harm their competitive standing by giving competitors insight they do not have”);
27 *Delphix Corp. v. Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20,
28 2014) (sealing “highly sensitive information regarding Delphix’s product architecture and

development”); *Trotsky v. Travelers Indem. Co.*, 2013 WL 12116153, at *8 (W.D. Wash. May 8, 2013) (granting motion to seal as to “internal research results that disclose statistical coding that is not publicly available”).

Moreover, if publicly disclosed, malicious actors may use such information to seek to compromise Google’s infrastructure. Google and its users would be placed at an increased risk of cyber security threats, and data related to its users could similarly be at risk. *See, e.g., In re Google Inc. Gmail Litig.*, 2013 WL 5366963, at *3 (N.D. Cal. Sept. 25, 2013) (sealing “material concern[ing] how users’ interactions with the Gmail system affects how messages are transmitted” because if made public, it “could lead to a breach in the security of the Gmail system. The security threat is an additional reason for this Court to seal the identified information.

The information Google seeks to redact, including information related to Google’s internal identifiers, logs, and their proprietary functionalities, is the minimal amount of information needed to protect its internal systems and operations from being exposed to not only its competitors but also to nefarious actors who may improperly seek access to and disrupt these systems and operations. Google’s sealing request is warranted under “compelling reasons” standard.

IV. CONCLUSION

For the foregoing reasons, the Court should seal the identified portions of the Reply.

DATED: May 1, 2023

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